1	BILL LOCKYER, Attorney General	
2	of the State of California PAUL C. AMENT, State Bar No. 60427	
3	Supervising Deputy Attorney General ELAINE GYURKO	
4	Senior Legal Analyst California Department of Justice	
5	300 So. Spring Street, Suite 1702 Los Angeles, California 90013	
6	Telephone: (213) 897-4944 Facsimile: (213) 897-9395	
7	Attorneys for Complainant	
8	PEROPE	ny n
9	BEFORE THE RESPIRATORY CARE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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12	In the Matter of the Petition to Revoke Probation	Case No. R-2000
13	Against:	CTIPLE ATER CURRENDED OF
14	JAMES E. JOHNSTON 4033 W. 164 th Street	STIPULATED SURRENDER OF LICENSE AND ORDER
15	Lawndale, California 90260	
16	Respiratory Care Practitioner License No. 22601	
17	Respondent.	
18		
19	IT IS HEREBY STIPULATED AND AGREED by and between the parties in this	
20	proceeding that the following matters are true:	
21	<u>PARTIES</u>	
22	1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory	
23	Care Board of California (Board). She brought this action solely in her official capacity and is	
24	represented in this matter by Bill Lockyer, Attorney General of the State of California, by Elaine	
25	Gyurko, Senior Legal Analyst.	
26	2. James E. Johnston (Responde	nt) is representing himself in this proceeding
27	and has chosen not to exercise his right to be represented by counsel.	
28	3. On or about October 11, 2002	2, the Board issued Respiratory Care
	1	

1 Practitioner License No. 22601 to Respondent. This license expired on June 30, 2005, and has 2 not been renewed. 3 JURISDICTION 4. 4 Petition to Revoke Probation No. R-2000 was filed before the Board, and 5 is currently pending against Respondent. The Petition to Revoke Probation and all other 6 statutorily required documents were properly served on Respondent on October 7, 2005. A copy 7 of Petition to Revoke Probation No. R-2000 is attached as Exhibit A and incorporated herein by 8 reference. 9 ADVISEMENT AND WAIVERS 5. 10 Respondent has carefully read and understands the charges and allegations 11 12 the effects of this Stipulated Surrender of License and Order. 13 6. Respondent is fully aware of his legal rights in this matter, including the

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- in Petition to Revoke Probation No. R-2000. Respondent also has carefully read and understands
- right to a hearing on the charges and allegations in the Petition to Revoke Probation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Petition to Revoke Probation No. R-2000, agrees that cause exists for discipline, and hereby surrenders his Respiratory Care Practitioner License No. 22601 for the Board's formal acceptance.
- 9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Respiratory Care Practitioner License without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that the Board's staff and counsel for Complainant may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender of License and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

- 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including the signatures thereto, shall have the same force and effect as the originals.
- 12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 22601, issued to Respondent James E. Johnston is surrendered and accepted by the Respiratory Care Board.

- 13. Respondent shall lose all rights and privileges as a respiratory care practitioner in California as of the effective date of the Board's Decision and Order.
- 14. Respondent shall cause to be delivered to the Board both his license and wallet certificate on or before the effective date of the Decision and Order.
- 15. Respondent fully understands and agrees that if he ever files an application for relicensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the

1	charges and allegations contained in Petition to Revoke Probation No. R-2000 shall be deemed to		
2	be true, correct, and admitted by Respondent when the Board determines whether to grant or		
3	deny the petition.		
4	16. Respondent shall pay the Board past due probation monitoring costs of		
5	\$700.00, and current cost recovery of \$828.00, for a total of \$1,528.00, prior to issuance of a		
6	reinstated license.		
7	<u>ACCEPTANCE</u>		
8	I have carefully read the Stipulated Surrender of License and Order. I understand		
9	the stipulation and the effect it will have on my Respiratory Care Practitioner License. I enter into		
10	this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree		
11	to be bound by the Decision and Order of the Respiratory Care Board.		
12	DATED: <u>January 9, 2006</u>		
13			
14	Original signed by: JAMES E. JOHNSTON		
15	Respondent		
16			
17	<u>ENDORSEMENT</u>		
18	The foregoing Stipulated Surrender of License and Order is hereby respectfully		
19	submitted for consideration by the Respiratory Care Board of the Department of Consumer		
20	Affairs.		
21	DATED: <u>January 27, 2006</u>		
22			
23	BILL LOCKYER, Attorney General of the State of California		
24			
25	Original signed by:		
26	ELAINE GYURKO Senior Legal Analyst		
27	Attorneys for Complainant		
28			

BEFORE THE RESPIRATORY CARE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation Against:

Case No. R-2000

JAMES E. JOHNSTON 4033 W. 164th Street Lawndale, California 90260

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs as its Decision in the above entitled matter.

This Decision shall become effective on March 23, 2006.

It is so ORDERED March 13, 2006.

Original signed by:

LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

Exhibit A Petition to Revoke Probation No. R-2000